

**ENTERED**

March 30, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION****ADR INTERNATIONAL LIMITED,****Plaintiff,****VS.****INSTITUTE FOR SUPPLY  
MANAGEMENT INC., et al.,****Defendants.**§  
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§**CIVIL ACTION NO. 4:22-CV-01914****ORDER ADOPTING REPORT AND RECOMMENDATION**

Before the Court is the Motion to Dismiss filed by Defendants. ECF No. 20. On February 27, 2023, United States Magistrate Judge Dena Hanovice Palermo issued a Report and Recommendation (“R&R”) in this case, recommending that the Motion be granted in part and denied in part. Judge Palermo recommended that ISM-Houston be dismissed without prejudice as a Defendant in this case. However, she recommended that the Court deny ISM’s Motion to Dismiss, both with respect to ADR’s copyright-infringement claim and with respect to ADR’s claim based on the Digital Millennium Copyright Act (DMCA). Defendants filed objections to the portion of the R&R that addressed ADR’s DMCA claim.

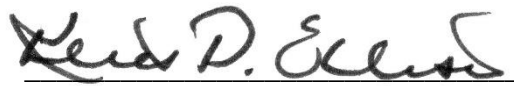
As required by 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of the portions of the R&R to which Defendants objected and reviewed the remainder of the R&R for clear error. The Court agrees with the conclusions and the reasoning of the R&R. Specifically, the Court is persuaded by the reasoning of courts that have found that the DMCA may properly apply even when the allegedly infringing work is not identical to the original. *See Huffman v. Activision Publ’g, Inc.*, No. 219CV00050RWSRSP, 2020 WL 8678493, at \*12 (E.D. Tex. Dec. 14, 2020), *report and recommendation adopted*, 2021 WL 2141352 (E.D. Tex. May 26, 2021); *GC2*

*Inc. v. Int'l Game Tech., IGT, Doubledown Interactive LLC*, 391 F. Supp. 3d 828, 843–44 (N.D. Ill. 2019).

Accordingly, the Court hereby **ADOPTS** the R&R and **GRANTS IN PART** and **DENIES IN PART** Defendant's Motion to dismiss. The claims against ISM-Houston are **DISMISSED WITHOUT PREJUDICE**. The claims against ISM remain pending.

**IT IS SO ORDERED.**

Signed at Houston, Texas on March 30, 2023.

A handwritten signature in black ink, appearing to read "Keith P. Ellison", written over a horizontal line.

Keith P. Ellison  
United States District Judge